

Application No. 09/916,866
Amendment "C" dated December 15, 2005
Reply to Office Action mailed October 20, 2005

BEST AVAILABLE COPY**REMARKS**

The Office Action mailed October 20, 2005 considered claims 1, 2, 4-12, and 14-39¹. By this amendment, claims 1, 8, 14, 22, 28, and 29 have been amended² and new claim 40 has been added³ such that 1, 2, 4-12, and 14-40 remain pending in the application of which claims 1, 8, 14, 22, 28, and 29 are the only independent claims.

The invention is generally directed to embodiments for installing software on computers in a data processing system with variety of computers having various hardware and software configurations. The invention allows for automatically installing software when a computer is detected as being newly added to the system. By detecting newly added computers and installing the appropriate software, computers can be configured to function as servers on a distributed data processing system.

For example, claim 1 is directed to a data processing system. A first computer receives software delivered by a second computer. The second computer includes functionality for determining when the first computer is newly added to the data processing system. In response to the second computer determining that the first computer is newly added to the data processing system, the second computer automatically installs the software onto the first computer such that the first computer may function as a server in a distributed data processing system.

Claim 8 is directed towards a system similar to that of claim 1. However, the system of claim 8 further includes functionality for determining an appropriate edition of the software to install on the first computer based on characteristics of the first computer including: processor type, operating system running on the first computer and the natural language associated with the first computer.

¹ Claims 1, 2, 4-7; 8-12; 14-21; 22, 23, 24-27; 28; and 29-34 were rejected under 35 U.S.C. 102(e) as being anticipated by art of record Collins, III et al., U.S. Patent 6,286,041 (hereinafter *Collins*). Claims 35- 39 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Collins* in view of Saulpaugh et al., U.S. Patent 5,630,076 (hereinafter *Saulpaugh*). Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Support for the amendment can be found throughout the application, with one particular example found at paragraph [022].

³ Support for the new claim can be found throughout the application, with one particular example found at paragraph [031].

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Claim 14 is similar to claim 1. However claim 14 further illustrates that the first and second computers are members of first and second sites and associated first and second area networks.

Claim 22 is directed to a method for determining when a first computer is newly added to a data processing system. A software edition that may be used for a natural language, processor and operating system of the first computer is identified. Preferences for installing the software edition are also identified. In response to determining that the first computer is added to the data processing system, the software edition is installed on the first computer such that the first computer may function as a server in a distributed data processing system. The method of claim 22 is from the perspective of a computer installing the software edition onto the first computer. Claim 28 is similar to claim 22, but includes functional 'step for' language, as opposed to some of the non-functional 'act of' language used in claim 22.

Claim 29, the last independent claim, is directed to a computer program product with computer executable instructions for performing the method of claim 22.

New dependent claim 40 more fully illustrates the usefulness of installing software on a computer such that the computer may function as a server in a distributed data processing system. In particular, claim 40 points out that distributed systems can increase system performance by moving or copying services from one computer to another within the distributed system.

Applicants respectfully submit that the claims are distinguishable over the art of record. The Examiner cites *Collins* as disclosing a second computer system configured to automatically determine when a first computer system is newly added to the data processing system and to automatically install the software on the first computer system in response to the second computer determining that the first computer is newly added to the data processing system. Applicants strongly traverse this rejection. Nonetheless, to more fully illustrate the importance of detecting computers *newly* added to the network and installing software on computers *newly* added to the network, applicants have amended the claims to point out that installing software to newly added computers allows the computers to function as a server in a distributed data processing system. Thus, the claimed embodiments illustrate how additional distributed resources may be added to a distributed system. This further illustrates why one might want to detect new computer as opposed to existing computers. Namely, by detecting new computers

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without software that allows the computers to act as servers, and adding server software, new servers can be added to a distributed network.

In rejecting the independent claims of the application, the Examiner states "Collins patent discloses heterogeneous target computer systems, and if a target computer requires an upgrade the server will upgrade it. This condition is inherent in the computer whether it is newly added or old since every computer must have software to operate." Office Action at 16. However, the Examiner's statement here clearly illustrates Applicants' assertion that Collins does not disclose "automatically determine[ing] when the first computer is newly added to the data processing system ...[and] automatically installing the software onto the first computer in response to the second computer determining that the first computer is newly added to the data processing system...." Per the Examiner's own admission, *Collins* is not concerned with whether a computer is new or old, but whether the computer system has a software upgrade or not. Thus, while the system disclosed by *Collins* may install software on a new computer, it does not do so as a result of determining that a computer is newly added to the system as recited by the claims.

This point is further demonstrated by the Examiner's need to cite additional art in rejecting the defendant claims that recite specific example of how a computer is determined to be newly added to a data processing system. The Examiner cites no specific examples in *Collins* of how a determination that a computer is newly added to a data processing system is performed. And yet, for the specific example of claims 35-39 which recite that determining that a computer is newly added to the processing system is performed by comparing a list of computers being managed to a previous list of computers being managed, the Examiner admits the need to cite additional art and cites *Saulpaugh*. Applicants are baffled by how the Examiner, with regard to *Collins*, states that "if a target computer requires an upgrade the server will upgrade it" whether old or new (admitting that *Collins* is not concerned with the difference, which is in direct contrast to what is recited by the claims) and yet sees the need to cite specific additional art directed towards the specific limitations modifying the limitations that the Examiner did see a need to identify specifically in the independent claims.

With regard to *Saulpaugh*, Applicants respectfully submit that *Saulpaugh* has been mischaracterized in the last office action. In particular, the Examiner states that *Saulpaugh* teaches "comparing a list of devices being managed to a previously generated list of devices being managed...." See e.g. page 12 of the Office Action. However, *Saulpaugh* actually teaches

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comparing hardware device names to compatible data fields of all known *drivers*. See col. 2, lines 45-47. The devices are presumably new devices being added to a computer system and not previously installed devices. See col. 1, lines 25-27. The drivers are not necessarily for previously installed hardware devices, but are rather "all known drivers" which may be found in "RAM, ROM, or another storage media (such as disk drive)." See Col. 2, lines 39-41 and 47. In fact *Saulpaugh* is silent as to comparing devices being managed to a previously generated list of devices being managed.

Applicants further traverse the combination of *Saulpaugh* and *Collins* for a number of additional reasons. Initially, the examiner has failed to establish or show any motivation to combine the two cited references. Secondly, even when combined the combination does not arrive at the invention, as the combination still fails to teach "a second computer configured to automatically determine when the first computer is newly added to the data processing system, the second computer being configured to automatically install the software onto the first computer in response to the second computer determining that the first computer is newly added to the data processing system...." Namely, *Collins* does not add software to a newly added computers as the result of detecting the newly added computers, and *Saulpaugh* does not install software to a newly added computer whatsoever.

Finally, the newly added limitation where the first computer may function as a server in a distributed data processing system is not shown in either *Collins* or *Saulpaugh*.

Although the foregoing remarks have been focused primarily on the independent claims, it will be appreciated that all of the rejections and assertions of record with respect to the independent claims, as well as the dependent claims, are now moot, and therefore need not be addressed individually. However, in this regard, it should be appreciated that Applicant does not necessarily acquiesce to any assertions in the previous Office Action that are not specifically addressed above, and hereby reserves the right to challenge those assertions at any appropriate time in the future, should it arise, including any official notice.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

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Respectfully submitted,



RICK D. NYDEGGER
Registration No. 28,651
JENS C. JENKINS
Registration No. 44,803
J. LAVAR OLDHAM
Registration No. 53,409
Attorneys for Applicant
Customer No. 022913

JJ Oberh
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